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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,594	12/28/2000	Steven Rhodes	7000-413	4824
27820	7590	06/08/2005	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512			JUNG, MIN	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/749,594	RHODES, STEVEN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Min Jung	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 December 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4, 17-34, 47-56 and 65-80 is/are rejected.
- 7) Claim(s) 5-16, 35-46 and 57-64 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 17, 20-28, 31-34, 47, 50-56, 65, 68-80 are rejected under 35 U.S.C. 102(e) as being anticipated by Goldberg et al., US 6,389,038 (Goldberg).

Goldberg discloses a method and system for combining plural independently addressable packets into a SuperPacket to improve the utilization of a communication channel.

Specifically regarding the present invention as recited in claim 1, Goldberg teaches receiving first packets from a communication link, each of the first packets including a source address (header including source address, col. 7, lines 42-47, and

lines 54-58); a shuffling unit for processing the first packets, the shuffling unit operative to extract data from the first packets and generate second packets at least partly on a basis of the source address of the first packets (MUX for combining multiple voice frames in a packet, col. 3, lines 30-31, and lines 47-55, and col. 4, lines 44-47), the shuffling unit releasing the second packets to the packet network (col. 3, lines 47-55); and a switching unit for receiving third packets from the packet network, the switching unit operative to perform switching of the third packets for establishing a communication session, the switching unit distinct from the shuffling unit (router 210 receiving the SuperPacket from the Internet and switching to PSTN side, col. 2, line 62 – col. 3, line 3, the router is distinct from the MUX in at least one embodiment of MUX/gateway, col. 7, lines 33-41).

Regarding claims 2-4, Goldberg teaches the packets including a source address, a destination address and at least one data segment (Fig. 6a and 6b, and col. 7, lines 42-47, and lines 54-58), the packet network interconnecting the switch with a plurality of remote switches (Figs. 3 and 4), the third packets including second packets generated by the shuffling units of the plurality of remote switches, and the third packets including the second packets generated by the shuffling unit of the switch (col. 7, lines 16-24).

Regarding claims 20-28, 31-34, 47, 50-56, 65, 68-80, the teaching of Goldberg as described above reads on these limitations, with the switch comprising a shuffling unit and a switching unit reading on the VOIP gateway with MUX function and the router of Goldberg.

Further, specifically regarding claims 25-27 and 68-70, Goldberg teaches packets including voice and/or data (col. 2, lines 7-9).

Further, specifically regarding claims 17, 28, 47 and 65, Goldberg teaches the communication session being a telephone call between two parties (col. 2, lines 47-59).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-19, 29-30, 48-49, and 66-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg in view of Molitor, US 6,661,799.

Goldberg fails to specifically teach that the communication session may be a conference call or a page broadcast. However, Molitor teaches conference call and broadcasting by stating that "for simplicity, we will confine discussion to two application exchanging data between them, as oppose to a one-to-many or many-to-many exchange" (col. 7, line 65 – col. 8, line 4). Goldberg suggests the conferencing and broadcasting capability in his teaching by providing Internet as the packet network and also the VOIP gateway and the router. Since conferencing and broadcasting is well known in the field of the invention by widely used techniques, and also as shown by Molitor, it would have been obvious for one of ordinary skill in the art at the time of the

invention to implement the Goldberg teaching by utilizing the conferencing and broadcasting capability suggested by the network elements provided in his teaching.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-80 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

6. Claims 5-16, 35-46, and 57-64 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Christensen et al. patent, the Feldmeier patent, the Jurkevich et al. patent, the Turner et al. patent, the Henderson et al. patent, and the Verma et al. patent are cited for further references.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 571-272-3127. The examiner can normally be reached on Monday, Thursday, Friday 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
June 7, 2005



Min Jung  
Primary Examiner